

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	1968.02
COMPLAINT INVESTIGATOR:	Brenda Alyea
DATE OF COMPLAINT:	October 21, 2002
DATE OF REPORT:	November 19, 2002
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	December 13, 2002

**COMPLAINT ISSUES:**

Whether the Northwest Allen County Schools and the Smith Green-West Allen County Special Education Cooperative violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written.

511 IAC 7-26-2(d) by failing to ensure that professional and paraprofessional staff serving the student have received specialized inservice training.

511 IAC 7-27-7(d) and (e) by continuing to implement the student's IEP for a period of more than twelve (12) months and failing to ensure that a current IEP was in place for the student at the beginning of the 2002-2003 school year.

511 IAC 7-27-4(a) by failing to convene a case conference committee (CCC) meeting upon request of the parent.

**FINDINGS OF FACT:**

1. The student is 7 years old, and is eligible for special education and related services as a Student with Autism spectrum disorder.
2. The last agreed-upon IEP is dated August 27, 2001. Although the CCC met on August 23, 2002, to write a new Individual Education Plan, the IEP has not yet been completed and signed.
3. The Complainant is alleging non-implementation of the IEP. Applying the alleged issues to the August 27, 2001 IEP, no documentation exists in the IEP that stipulates the contracted behavior specialist is to retain control of the student's behavioral objectives in the classroom and act as the sole communicator with the teaching assistant, but is present as a consultant. The contracted consultant listed 46 eliminated maladaptive behaviors, but did not list specific goals and objectives as part of the August 27, 2001 IEP and there are no subsequent reports. The last agreed-upon IEP, dated August 27, 2001, contains a list of Eliminated Maladaptive Behaviors submitted by a contracted behavioral consultant, a list of 78 short-term speech objectives, some of which were checked off as achieved, and a second list of 54 short-term speech objectives submitted by the contracted speech consultant. None of the documents submitted by the contracted consultants adhered to the Evaluation Codes (E-Emerging skills, L-Little/no progress, O-Ongoing, D-Discontinued) specified by the IEP document. An additional

goal of improving fine motor skills was listed in the Individual Implementation Plan. The Complainant also alleges that the school failed to provide an instructional aide in the classroom for two weeks during September 2002. The aide present at the beginning of the school year resigned September 13, 2002, and a new aide was hired, with a beginning start date of September 30, 2002. The August 27, 2001 IEP does not stipulate that the student is to be provided a teaching assistant solely for the student alone. The school stated that they provided classroom substitutes during the period of time between the resignation of the first teaching assistant and the employment of the second one, two week later. The student did not go without services during this time. The Complainant also asserts that the student is not provided with preferential seating in the classroom. Modifications in the August 27, 2001 IEP refer only to motoric issues, spacing "heavy work" activities throughout the day and task analysis. The complainant alleges that the behavior specialist was to meet weekly with school staff in addition to the training that was occurring during the student's presence in the classroom and when no students were present. Case conference summary notes indicate only a preference in setting up weekly meetings between the behavioral specialist and school staff. The complainant alleges that other students in the classroom were to be "de-bugged" or trained to respond to inappropriate behaviors of the student. There is no mention of this in the August 27, 2001 IEP.

4. Documentation supplied by the school indicates that formal district-wide training specific to the student's eligibility category occurred on September 5. There was no year listed on the training log. An additional training log indicated student-specific training/observation dates of August 20 through August 23, August 26 through 30, September 3 through 6, and September 9 through 13. The teaching assistant attending these trainings resigned September 13, 2002, and substitute assistants were utilized until September 25, 2002. Between September 16 through 20, September 23 through 26, and September 30 through October 4, only the teacher of service was receiving training, with the new teaching assistant involved in student observation during the week of September 30 through October 4, 2002. Documentation supplied by the school indicates that training for the current teaching assistant occurred October 7 through 11, October 14 through 18, October 21 through 26, and October 28 through November 1, 2002. An additional teaching assistant was hired October 28 and is receiving training. Training occurred as "hands on," and during periods of time when no students were present in the classroom.
5. The school submitted a telephone log with a total of twenty-three (23) phone calls to the residence of the parent between April 9, 2002, and October 15, 2002, twenty of which occurred between August 1, 2002, and October 15, 2002. The parent said that she did not put requests for case conference meetings in writing. The case conference convened on August 23, 2002, with no resulting agreed-upon IEP, and re-convened after the complaint was filed and during this investigation, October 25, 2002. Two additional program conferences were held September 16 and 17, 2002. These were not considered by the complainant to be CCC meetings, but rather informal conferences concerning the student's program. The complainant asserts that during the meeting on September 16, 2002, the school requested a list of dates of the complainant's availability to continue the IEP conference and a written list of three dates was given to the school at the September 17 meeting. The complaint also asserts that the school could not meet on the dates submitted and that she telephoned subsequent to the September 17, 2002 meeting to determine another date to continue the IEP meeting.

## **CONCLUSIONS:**

1. Finding of facts #2 and #3 indicate that the August 27, 2001 IEP was implemented as written. Therefore a violation of 511 IAC 7-27-7(a) is not found.

2. Finding of fact # 4 indicates that the teaching assistant in the classroom at the beginning of the 2002-2003 school year received training. The school supplied records indicating that the new teaching assistant, hired in late September 30, 2002 has also received training. Therefore a violation of 511 IAC 7-26-2(d) is not found.
3. Finding of fact #2 indicates that the last signed Individual Education Plan is dated August 27, 2001. Therefore a violation of 511 IAC 7-27-7(d) and (e) is found.
4. Finding of fact #5 indicates that a CCC meeting occurred August 23, 2002, which did not result in a signed IEP. A formal IEP meeting did not occur prior to the date of the complaint being filed. There was a minimum of thirty instructional days between the occurrence of the IEP meeting held on August 23, 2002, and the date of the complaint being filed. Therefore, a violation of 511 IAC 7-27-4(a)(3) is found.

#### **DISCUSSION:**

**The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

#### **CORRECTIVE ACTION:**

1. Convene a CCC meeting to complete the student's IEP, dated August 23, 2002. **A copy of the signed CCC Report/IEP must be submitted to the Division no later than December 13, 2002.**
2. Send a memorandum to all administrators and special education personnel stating that upon the request of a parent, a case conference committee is to be convened. **A copy of the memorandum, including a list of recipients must be submitted to the Division no later than December 13, 2002.**